

Assembly Bill No. 1851

Passed the Assembly May 23, 2014

Chief Clerk of the Assembly

Passed the Senate June 26, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 46601 of the Education Code, relating to school attendance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1851, Bradford. School attendance: interdistrict attendance.

Existing law authorizes the governing boards of 2 or more school districts to enter into an agreement for the interdistrict attendance of pupils who are residents of the school districts. If the governing board of either of 2 school districts subject to such an agreement fails to approve a request for a permit to attend another school district that is also a party to the agreement within 30 calendar days after the person having legal custody of a pupil has requested the permit, or, in the absence of an agreement between the school districts, fails or refuses to enter into an agreement, the person requesting the permit shall be advised of the right to appeal to the county board of education, as specified. Existing law requires the county board of education, within 30 calendar days after the appeal is filed, to determine whether the pupil should be permitted to attend the school district in which the pupil desires to attend and the applicable period of time, unless the county board of education is located in a class 1 or class 2 county, as defined, in which case the county board of education, until July 1, 2015, is required to make this determination within 40 schooldays.

This bill would instead, until July 1, 2018, require a county board of education located in a class 1 or class 2 county, as defined, to determine within 40 schooldays whether the pupil should be permitted to attend the school district in which the pupil desires to attend and the applicable period of attendance. The bill would make nonsubstantive changes to these provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 46601 of the Education Code, as amended by Section 2 of Chapter 87 of the Statutes of 2011, is amended to read:

46601. (a) If, within 30 calendar days after the person having legal custody of a pupil has so requested, the governing board of either school district fails to approve interdistrict attendance in the current term, or, in the absence of an agreement between the school districts, fails or refuses to enter into an agreement, the school district denying the permit, or, in the absence of an agreement, the school district of residence, shall advise the person requesting the permit of the right to appeal to the county board of education.

(b) If, within 14 calendar days after the commencement of instruction in a new term in each of the school districts, respectively, when the person having legal custody of a pupil has so requested separately of each school district not later than 30 calendar days before the commencement of instruction in that term in that school district, the governing board of either school district fails to approve interdistrict attendance in that term, or, in the absence of an agreement between the school districts to permit that attendance, fails or refuses to enter an agreement, the school district denying the permit, or, in the absence of an agreement, the school district of residence, shall advise the person requesting the permit of the right to appeal to the county board of education.

(c) Notifying school districts shall also, in all instances, advise persons making unsuccessful requests for interdistrict attendance of all of the following:

(1) The person having legal custody may appeal, within 30 calendar days of the failure or refusal to issue a permit, or to enter into an agreement allowing the attendance, to the county board of education having jurisdiction over the school district of residence of the parent or legal guardian or person having legal custody. Failure to appeal within the required time is good cause for denial of an appeal. An appeal shall be accepted only upon verification by the county board of education's designee that appeals within the school districts have been exhausted. If new evidence or grounds for the request are introduced, the county board of education may remand the matter for further consideration by the school district or districts. In all other cases, the appeal shall be granted or denied on its merits.

(2) (A) (i) The county board of education shall, unless clause (ii) applies, within 30 calendar days after the appeal is filed, determine whether the pupil should be permitted to attend in the

school district in which the pupil desires to attend and the applicable period of attendance.

(ii) The county board of education in a class 1 or class 2 county shall, within 40 schooldays after the appeal is filed, determine whether the pupil should be permitted to attend in the school district in which the pupil desires to attend and the applicable period of attendance.

(B) In the event that compliance by the county board of education within the time requirement for determining whether the pupil should be permitted to attend in the school district in which the pupil desires to attend is impractical, the county board of education or the county superintendent of schools, for good cause, may extend the time period for up to an additional five schooldays. The county board of education shall provide adequate notice to all parties of the date and time of any hearing scheduled and of the opportunity to submit written statements and documentation and to be heard on the matter pursuant to rules and regulations adopted by the county board of education in accordance with this chapter. The county board of education's rules may provide for the granting of continuances upon a showing of good cause. The county board of education shall render a decision within three schooldays of any hearing conducted by the county board of education unless the person who filed the appeal requests a postponement.

(C) In a class 1 or class 2 county, the county board of education's rules may provide for any hearing pursuant to this section to be conducted by a hearing officer pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the Government Code, or by an impartial administrative panel of three or more certificated persons appointed by the county board of education. Section 27722 of the Government Code applies to a hearing by an impartial administrative panel and, for purposes of this section, the term "hearing officer" in Section 27722 of the Government Code includes an impartial administrative panel. A member of the impartial administrative panel shall not be a member of the county board of education, nor be employed by the school district of residence or the school district of desired attendance.

(D) The definitions of "class 1 county" and "class 2 county" in subdivision (e) of Section 48919.5 apply to this section. If the hearing officer is not authorized to decide whether the pupil should

be permitted to attend in the school district in which the pupil desires to attend, the county board of education, within 10 days of receiving the recommended decision pursuant to subdivision (b) of Section 27722 of the Government Code, shall render a decision.

(3) The county supervisor of attendance, or other designee of the county superintendent of schools, shall investigate to determine whether local remedies in the matter have been exhausted and to provide any additional information deemed useful to the county board of education in reaching a decision.

(4) If the interdistrict attendance involves school districts located in different counties, the county board of education having jurisdiction over the school district denying a permit, or refusing or failing to enter into an agreement to allow for the issuance of a permit, shall have jurisdiction for purposes of an appeal. If both school districts deny a permit, or refuse or fail to enter into an agreement to allow for the issuance of a permit, the county board of education having jurisdiction over the school district of residence shall have jurisdiction for purposes of an appeal and, upon granting a pupil's appeal, shall seek concurrence in the decision by the county board of education of the other county that shall provide adequate opportunity for the school district under its jurisdiction to be heard on the matter before making a decision. If the two county boards of education do not then concur, the pupil's appeal shall be denied.

(5) Pupils who are under consideration for expulsion, or who have been expelled pursuant to Sections 48915 and 48918, may not appeal interdistrict attendance denials or rescissions while expulsion proceedings are pending, or during the term of the expulsion.

(d) This section shall become inoperative on July 1, 2018, and, as of January 1, 2019, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2019, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 46601 of the Education Code, as added by Section 3 of Chapter 87 of the Statutes of 2011, is amended to read:

46601. (a) If, within 30 calendar days after the person having legal custody of a pupil has so requested, the governing board of either school district fails to approve interdistrict attendance in the current term, or, in the absence of an agreement between the school

districts, fails or refuses to enter into an agreement, the school district denying the permit, or, in the absence of an agreement, the school district of residence, shall advise the person requesting the permit of the right to appeal to the county board of education.

(b) If, within 14 calendar days after the commencement of instruction in a new term in each of the school districts, respectively, when the person having legal custody of a pupil has so requested separately of each school district not later than 30 calendar days before the commencement of instruction in that term in that school district, the governing board of either school district fails to approve interdistrict attendance in that term, or, in the absence of an agreement between the school districts to permit that attendance, fails or refuses to enter an agreement, the school district denying the permit, or, in the absence of an agreement, the school district of residence, shall advise the person requesting the permit of the right to appeal to the county board of education.

(c) Notifying school districts shall also, in all instances, advise persons making unsuccessful requests for interdistrict attendance of all of the following:

(1) The person having legal custody may appeal, within 30 calendar days of the failure or refusal to issue a permit, or to enter into an agreement allowing the attendance, to the county board of education having jurisdiction over the school district of residence of the parent or legal guardian or person having legal custody. Failure to appeal within the required time is good cause for denial of an appeal. An appeal shall be accepted only upon verification by the county board of education's designee that appeals within the school districts have been exhausted. If new evidence or grounds for the request are introduced, the county board of education may remand the matter for further consideration by the school district or districts. In all other cases, the appeal shall be granted or denied on its merits.

(2) (A) The county board of education shall, within 30 calendar days after the appeal is filed, determine whether the pupil should be permitted to attend in the school district in which the pupil desires to attend and the applicable period of attendance.

(B) In the event that compliance by the county board of education within the time requirement for determining whether the pupil should be permitted to attend in the school district in which the pupil desires to attend is impractical, the county board

of education or the county superintendent of schools, for good cause, may extend the time period for up to an additional five schooldays. The county board of education shall provide adequate notice to all parties of the date and time of any hearing scheduled and of the opportunity to submit written statements and documentation and to be heard on the matter pursuant to rules and regulations adopted by the county board of education in accordance with this chapter. The county board of education's rules may provide for the granting of continuances upon a showing of good cause. The county board of education shall render a decision within three schooldays of any hearing conducted by the county board of education unless the person who filed the appeal requests a postponement.

(C) In a class 1 or class 2 county, the county board of education's rules may provide for any hearing pursuant to this section to be conducted by a hearing officer pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the Government Code, or by an impartial administrative panel of three or more certificated persons appointed by the county board of education. Section 27722 of the Government Code applies to a hearing by an impartial administrative panel and, for purposes of this section, the term "hearing officer" in Section 27722 of the Government Code includes an impartial administrative panel. A member of the impartial administrative panel shall not be a member of the county board of education, nor be employed by the school district of residence or the school district of desired attendance.

(D) The definitions of "class 1 county" and "class 2 county" in subdivision (e) of Section 48919.5 apply to this section. If the hearing officer is not authorized to decide whether the pupil should be permitted to attend in the school district in which the pupil desires to attend, the county board of education, within 10 days of receiving the recommended decision pursuant to subdivision (b) of Section 27722 of the Government Code, shall render a decision.

(3) The county supervisor of attendance, or other designee of the county superintendent of schools, shall investigate to determine whether local remedies in the matter have been exhausted and to provide any additional information deemed useful to the county board of education in reaching a decision.

(4) If the interdistrict attendance involves school districts located in different counties, the county board of education having

jurisdiction over the school district denying a permit, or refusing or failing to enter into an agreement to allow for the issuance of a permit, shall have jurisdiction for purposes of an appeal. If both school districts deny a permit, or refuse or fail to enter into an agreement to allow for the issuance of a permit, the county board of education having jurisdiction over the school district of residence shall have jurisdiction for purposes of an appeal and, upon granting a pupil's appeal, shall seek concurrence in the decision by the county board of education of the other county that shall provide adequate opportunity for the school district under its jurisdiction to be heard on the matter before making a decision. If the two county boards of education do not then concur, the pupil's appeal shall be denied.

(5) Pupils who are under consideration for expulsion, or who have been expelled pursuant to Sections 48915 and 48918, may not appeal interdistrict attendance denials or rescissions while expulsion proceedings are pending, or during the term of the expulsion.

(d) This section shall become operative on July 1, 2018.

Approved _____, 2014

Governor